

1 JANUARY 1986

FK -00A5-86

ROUTING SLIP

TO: (Name, office symbol, or building, Agency/Post) Sanitized Copy Approved for Release 2011/05/23 : CIA-RDP88G01332R000100020027-0

Subject copy

1. DIRECTOR OF INFORMATION SERVICES		
2.		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

#1 - PLEASE PREPARE ~~THE~~ APPROPRIATE RESPONSE

WITH A DROP COPY TO EKO/DDA.

PLEASE NOTE DEADLINE OF 3 FEBRUARY 1986.

"NO response reg'd"

cc: D/OP

done 1/10/86

We (CIA) are not per para 3a list of agencies "per Legal Counsel OIS"

Remark

No also talked to OGC/ALD.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, or symbol, Agency/Post)	Room No.—Bldg.
EO/DDA 7D18 HQS	Phone No.

5041-102

U.S.G.P.O. (803-421-529/320)

OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

TO:	ACTION	INFO	DATE	INITIAL
1 DCI				
2 DDCI				
3 DADR				
4 D/ICS				
5 DDI				
6 DDA		X		
7 DDO				
8 DDS&T				
9 Chm/NIC				
10 GC		X		
11 IG				
12 Compt				
13 D/OLL				
14 D/PAO				
15 D/PERS				
16 VC/NIC				
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SUSPENSE

Date

3637 (10-81)

6 Feb 86

Executive Secretary

3 Jan 86

Date

ROUTING AND TRANSMITTAL SLIP		Date																		
		6 FEB 1986																		
<b>TO:</b> (Name, office symbol, room number, building, Agency/Post)	<b>Initials</b>	<b>Date</b>																		
1. <span style="border: 1px solid black; display: inline-block; width: 100px; height: 1.2em; vertical-align: middle;"></span>																				
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As Requested	For Correction	Prepare Reply																		
Circulate	For Your Information	See Me																		
Comment	Investigate	Signature																		
Coordination	Justify																			
<b>REMARKS</b>																				

Regarding the attached item from OMB,  
 no response is required from the CIA. We (CIA)  
 are not part of paragraph 3a list of participating  
 Agencies "per  OIS.  
 He also talked to  OGC/ALD.

1 A1

**DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions**

<b>FROM:</b> (Name, org. symbol, Agency/Post)	Room No.—Bldg.
	Phone No.

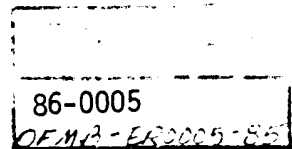
5041-102

\* U.S.G.P.O.: 1983-421-529/320

**OPTIONAL FORM 41 (Rev. 7-76)**  
 Prescribed by GSA  
 FPMR (41 CFR) 101-11.206



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503



December 23, 1985

BULLETIN NO. 86-4

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Regulatory Program of the United States Government  
(April 1, 1986 -- March 31, 1987) and Unified Agenda of  
Federal Regulations for April 1986

**1. Purpose.**

This Bulletin sets forth procedures for the preparation and publication of: (1) the Regulatory Program of the United States Government (April 1, 1986 -- March 31, 1987), and (2) the Unified Agenda of Federal Regulations for April 1986. It integrates the requirements of Executive Order No. 12498 to develop an annual Regulatory Program of "Significant Regulatory Actions" with the requirements for the semiannual publication of an agenda of rulemaking actions as required by the Regulatory Flexibility Act and Executive Order No. 12291.

a. 1986 Regulatory Program. Information required by this Bulletin from each agency participating in the 1986 Regulatory Program (the participating agencies are listed in Section 3.a.) will be the basis for: (1) a statement of the Administration's regulatory policies, goals, and objectives for the Program Year; and (2) a description of the Administration's Significant Regulatory Actions, underway or planned, for the Program Year beginning in April 1986. An attachment provides instructions for describing Significant Regulatory Actions. The Regulatory Program establishes the Administration's regulatory priorities; increases the accountability of agency heads for the regulatory actions of their agencies; provides for Presidential oversight of the regulatory process; reduces the burdens and increases the effectiveness of existing and future regulations; minimizes duplication and conflict of regulations; facilitates meeting regulatory deadlines; and enhances public and congressional understanding of how the Administration will exercise the discretion afforded to agencies by law.

b. April 1986 Unified Agenda. This Bulletin also sets forth the procedures and describes the information that all agencies subject to Executive Order No. 12291 must furnish for publication of the April 1986 Unified Agenda of Federal Regulations. Development of the Unified Agenda also fulfills the requirements of the Regulatory Flexibility Act (P.L.

96-354, 5 USC Chapter 6). Executive Order No. 12291 describes certain information that agencies will include in their agenda and authorizes the Director of the Office of Management and Budget (OMB) to prescribe the form of, and additional information for inclusion in, the agenda.

2. **Authority.** The Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; Executive Order No. 11541, as amended (Prescribing Duties of the Office of Management and Budget and Domestic Council, 35 Fed. Reg. 10737, July 2, 1970); Executive Order No. 12291 (Federal Regulation, 46 Fed. Reg. 13193, February 19, 1981); Executive Order No. 12498 (Regulatory Planning Process, 50 Fed. Reg. 1036, January 8, 1985); and Memorandum for the Heads of Executive Departments and Agencies entitled, Development of Administration's Regulatory Program, dated January 4, 1985.

3. **Coverage.**

- a. The 1986 Regulatory Program. Pursuant to Section 1(a) of Executive Order No. 12498, the following agencies, to the extent they are subject to Executive Order No. 12291, are subject to the provisions of Executive Order No. 12498 and to Section 5 of this Bulletin. Only the agencies listed below must furnish the information for inclusion in the Regulatory Program. Any agency not listed, but which wants to be included in the Regulatory Program, should obtain the concurrence of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) before developing the information needed for inclusion.

Department of Agriculture  
Department of Commerce  
Department of Defense (procurement and civil functions only)  
Department of Education  
Department of Energy  
Department of Health and Human Services  
Department of Housing and Urban Development  
Department of the Interior  
Department of Justice  
Department of Labor  
Department of Transportation  
Department of the Treasury  
Advisory Council on Historic Preservation  
Council on Environmental Quality  
Environmental Protection Agency  
Equal Employment Opportunity Commission  
General Services Administration  
National Aeronautics and Space Administration  
Office of Personnel Management  
Small Business Administration  
Veterans Administration

- b. April 1986 Unified Agenda. All agencies subject to Executive Order No. 12291 are subject to the requirements of Section 6 of this Bulletin.

#### 4. Definitions.

- a. A "Prerulemaking Action" is any necessary or important action or activity to be taken to determine whether, or how, to initiate rulemaking. Such an action occurs prior to a notice of proposed rulemaking and includes any public announcement or commitment that could influence or lead to the commencement of rulemaking proceedings at a later date, e.g., advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, important regulatory policy proposals, etc.
- b. A "Rulemaking Action" is the publication of any notice of proposed rulemaking, "final" rule, or other statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy.
- c. A "Significant Regulatory Action" (SRA) is any Prerulemaking or Rulemaking Action that is or would be:
  - 1) a "major rule" as defined by Sections 1(b) or 3(b) of Executive Order No. 12291;
  - 2) a priority of the agency head;
  - 3) of unusual interest to other Federal agencies or the public;
  - 4) likely to establish an important new policy precedent; or
  - 5) of major impact on the agency's information collection activities.

A "Significant Regulatory Action" also includes any significant action related to regulatory activity designated by the Office of Management and Budget, following consultation with the agency head or heads concerned, to warrant review under Executive Order No. 12498.

- d. An "Other Regulatory Action" is any Prerulemaking or Rulemaking Action that would be a step toward adoption of a rule that is not a Significant Regulatory Action.
- e. "Program Year" means the 12-month period from April 1, 1986 to March 31, 1987 for the 1986 Regulatory Program and the April 1986 Unified Agenda.

**5. The Draft 1986 Regulatory Program.**

- a. Agency Review. Agency review is the most important part of the development of the Regulatory Program. It is an important means by which the head of the agency can annually review the regulatory plans and efforts of the agency and improve the accountability of the senior regulatory officials of the agency in carrying out their responsibilities. It is also a means by which the President can assure that the agency heads carry out their executive responsibilities related to their regulatory activities. In signing Executive Order No. 12498, the President emphasized that

"it will be the personal responsibility of the head of each agency to determine--at the beginning of the regulatory process, not at the end--whether a given regulatory venture is consistent with the goals of the Administration and whether agency resources should be committed to it. Each agency head will thus be accountable for the management of the regulatory process, to ensure that policy options are not narrowed prematurely and that each significant regulatory proposal will be considered in relation to others. . ."  
(Memorandum for the Heads of Executive Departments and Agencies entitled, Development of Administration's Regulatory Program, dated January 4, 1985).

The draft regulatory program of each agency should be the result of a process that integrates analysis, planning, evaluation, and budgeting; and that reflects:

- 1) the requirements and authorities of the agency as provided by law;
  - 2) the regulatory policies and principles of the President, as stated in Section 2 of Executive Order No. 12291 and Section 1(d) of Executive Order No. 12498;
  - 3) the missions, goals, priorities, and objectives of the agency; and
  - 4) consideration of appropriate roles for Federal, State, and local governments, as well as the private sector.
- b. Content of the Draft 1986 Regulatory Program. The draft regulatory program shall consist of the draft regulatory overview and the draft descriptions of Significant Regulatory Actions.
- 1) Regulatory Overview. Each agency shall submit a draft overview of the regulatory policies, goals, and objectives that it proposes to pursue during the Program Year. This overview should discuss how these policies, goals, and objectives are consistent with the

Administration's regulatory principles, as stated in Section 2 of Executive Order No. 12291 and Section 1(d) of Executive Order No. 12498. This overview should also discuss the most important regulatory actions the agency will take during the Program Year and how the actions would comport with the President's regulatory principles. In addition, the overview should discuss the Significant Regulatory Actions of the agency that revise or rescind existing rules. For a large department or agency, with several regulatory components or offices, the agency should divide its overview and provide separate descriptions of the regulatory policies, goals, and objectives for each regulatory component or office.

- 2) Significant Regulatory Actions. Each agency shall also submit separate descriptions of each Significant Regulatory Action that the agency proposes to pursue during the Program Year, in accordance with the Regulatory Information Data Form and the instructions for describing Significant Regulatory Actions (attached).
- 3) Consistency with 1987 Budget Proposals. Agency descriptions of their regulatory overviews and Significant Regulatory Actions shall be consistent with Administration positions taken in the 1987 budget proposals submitted to the Congress.
- 4) Special Analyses and Additional Information. To assist in the preparation of the Regulatory Program, agencies shall provide such additional information as the Administrator of the Office of Information and Regulatory Affairs (OIRA) may request. As necessary, arrangements will be made to convene meetings with agency officials to discuss their draft regulatory programs.

c. Review, Compilation, and Publication of 1986 Regulatory Program.

- 1) Three copies of all material, except Update Documents (two copies), for the draft regulatory program shall be submitted not later than February 3, 1986 to the Office of Information and Regulatory Affairs, Room 3236, New Executive Office Building, Office of Management and Budget, Washington, D.C. 20503.
- 2) OMB review of the draft regulatory program of each agency will (1) consider the consistency of the draft regulatory program with the Administration's policies and priorities and the draft regulatory programs submitted by other agencies; and (2) identify such further regulatory or deregulatory actions as may be necessary in order to achieve such consistency. Issues arising from this review may be submitted for further review by the

President or by the appropriate Cabinet Council or other forum as the President may designate.

- 3) As may be necessary, each agency shall update, review, and modify its draft regulatory program for the purpose of compilation and publication in the 1986 Regulatory Program. OMB will, as appropriate, circulate a draft of this Regulatory Program for agency comment, review, and interagency coordination before publication.

d. Proposed Regulatory Action Not Described in the Administration's 1986 Regulatory Program.

- 1) If, during the Program Year, the agency intends to take a Prerulemaking or Rulemaking Action that would be subject to the provisions of Section 5 of this Bulletin but such action is not included in the 1986 Regulatory Program or, if previously included, it is materially different from the action described in the Program, the agency shall advise the Director of OMB and submit the information called for by the Regulatory Information Data Form and the instructions for describing Significant Regulatory Actions (attached) for review.
- 2) Except for unanticipated emergencies or when statutory or judicial deadlines would otherwise be missed, the agency shall refrain from taking a Significant Regulatory Action that is under review pursuant to this section until the OMB review has been completed.
- 3) For any Significant Regulatory Action that is not submitted under Executive Order No. 12291, i.e., a Prerulemaking Action, OMB shall be deemed to have concluded review of the regulatory action in accord with this section within 10 days of its receipt, unless the agency is advised to the contrary within that 10 days.
- 4) For any Significant Regulatory Action that is submitted under Executive Order No. 12291, i.e., a draft notice of proposed rulemaking or a draft final rule, OMB shall be deemed to have concluded review of the regulatory action within the applicable time limit stated in Section 3(e)(2) of Executive Order No. 12291, unless the agency is advised to the contrary within that time limit. No separate submission under Executive Order No. 12498 is required in this circumstance.
- 5) Absent unusual circumstances such as a new statutory or judicial requirement or an unanticipated emergency, OMB may return for reconsideration any rule submitted for review under Executive Order No. 12291 during the Program Year that would be subject to Section 5 of this Bulletin but was not included in the Regulatory Program for the

Program Year, or, if included in the Program, is materially different from the action described in the 1986 Regulatory Program.

- 6) Any amendments to the 1986 Regulatory Program that are reviewed in accordance with this subsection will be included in the subsequent Regulatory Program and Unified Agenda.

e. Exemptions.

Pursuant to Section 2(c) of Executive Order No. 12498, the Director is authorized to exempt from the requirements of the Order and this Bulletin any class or category of regulatory actions for which the Director determines that review is not necessary in order to achieve the effective implementation of the regulatory planning process. Requests for such exemptions should be submitted by the agency head to the Administrator of OIRA prior to January 6, 1985.

f. Disclosure of Draft Regulatory Program and of any Additional Information Constituting or Relating to a Draft Regulatory Program.

Any written material or other information relating to an agency's draft regulatory program or the 1986 Regulatory Program (including any drafts thereof) shall not be disclosed except as part of the publication, Regulatory Program of the United States Government (April 1, 1986 -- March 31, 1987). If requests are made for such materials or information, the proposed response by the agency must be discussed with the Administrator of OIRA and the Counsel to the President before a response is made.

6. April 1986 Unified Agenda.

a. Scope of Unified Agenda.

Regulatory agendas for publication in April 1986 shall describe all Significant and Other Regulatory Actions that the agency plans to conduct or review during the 12 months succeeding publication. At a minimum, the Agenda shall include all regulatory actions expected during the year following publication for which an agency expects or plans to publish or otherwise implement an advance notice of proposed rulemaking, a notice of proposed rulemaking or a "final" rule, or for which an agency is conducting a review pursuant to 5 USC 610 or Section 3(i) of Executive Order No. 12291. An agency need not include in its regulatory agenda those regulatory actions that are excluded by Section 1(a) of Executive Order No. 12291 nor any additional regulatory actions that OMB has agreed may be omitted. OMB Bulletin No. 85-7 (December 14, 1984) requires that agendas include all prospective regulatory actions that pertain to procurement.

b. Publication of the Unified Agenda of Federal Regulations for April 1986.

- 1) Agencies shall publish their portion of the April 1986 Unified Agenda in a uniform format. Independent regulatory agencies and commissions are urged to continue to use the uniform format for their regulatory agendas.
- 2) Agencies shall submit the applicable forms and other documents to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3236, New Executive Office Building, Washington, D.C. 20503. These forms are the computer printouts (Agenda Update Documents -- in two copies) provided by OMB and, for new regulatory actions, the Regulatory Information Data Form. An agency shall also submit one signed original and two certified copies of its preamble to its regulatory agenda. The preamble shall meet the normal requirements for printing in the Federal Register, including the agency's Billing Code and a list of CFR parts affected. In addition, the agency shall submit to OMB a letter addressed to the Office of Federal Register authorizing the Regulatory Information Service Center (RISC) to assemble the agency's agenda and authorizing the Government Printing Office (GPO) to bill the agency for printing its portion of the April 1986 Unified Agenda. Agencies entering their own data into the RISC computer must certify that one paper copy of the data is correct.
- 3) OMB will ensure that all agency agendas are compiled and forwarded as a complete group to the Office of the Federal Register, which will have the GPO print them in a single day's issue of the Federal Register. All agencies will be able to obtain reprint copies of their individual agendas through the GPO procurement process.

c. Submission Dates.

- 1) In accordance with Section 5 of this Bulletin, agencies participating in the 1986 Regulatory Program must make their submissions of draft regulatory programs to OMB no later than February 3, 1986. Agencies participating in the 1986 Regulatory Program shall also submit the remainder of their Unified Agenda materials (their descriptions of Other Regulatory Actions, the preamble to their regulatory agenda, and the letter to the Office of the Federal Register) not later than February 3, 1986.
- 2) Agencies not participating in the 1986 Regulatory Program and the independent regulatory agencies and commissions voluntarily participating in the April 1986 Unified Agenda shall submit all completed regulatory agenda materials to OMB not later than February 27, 1986.

**7. Structure of the Regulatory Program and the Unified Agenda.**

Each Regulatory Program and Unified Agenda will be structured as follows:

- a. Actions for each agency and subagency will be grouped together.
- b. Within each agency grouping, regulatory actions will be grouped according to whether the next regulatory action that the agency expects or plans to take during the Program Year is: (1) a Prerulemaking Action; (2) publication or other implementation of a notice of proposed rulemaking; (3) publication or other implementation of a final rule; or (4) a Completed Action. An agency need not provide a detailed narrative description of a Significant Regulatory Action that has been completed; instead, it need provide only the information called for by the Regulatory Information Data Form.

**8. Information Contact.**

For further information on the requirements of this Bulletin, each agency should contact the appropriate OIRA Desk Officer, in OMB. For further information concerning automated production, format and information for the Unified Agenda, or submission and completion of regulatory agendas, contact the Regulatory Information Service Center (395-4931).

  
James H. Miller III  
Director



Attachment

Bulletin No. 86-4

INSTRUCTIONS FOR DESCRIBING  
SIGNIFICANT REGULATORY ACTIONS

Coverage

Pursuant to Section 5 of this Bulletin, the head of each agency covered by this Bulletin shall submit information describing each proposed Significant Regulatory Action (grouped as specified in Section 7 of this Bulletin), using the topic headings identified below. An agency need not provide a detailed narrative description of an SRA that has been completed; instead, it need provide only the information called for by the Regulatory Information Data Form.

General Instructions

Each agency shall provide concise but complete information relating to the topic headings listed below. Retype each topic heading. At the beginning of each description of an SRA, and on top of the second and succeeding pages of the description, state the agency, the title of the proposed SRA, and the Regulation Identifier Number (RIN), if any. Type the text of the narrative description in double-space. Attach this narrative description to the applicable Regulatory Information Data Form or Update Document.

Each narrative description of a Significant Regulatory Action shall adhere to the following format:

Department/Agency and  
Bureau/Office issuing regulations  
(or the acronym, e.g., "USDA/FNS")

RIN: 0000-AA00

REGULATION TITLE

Problem To Be Solved:

Need for Federal Solution:

Approach:

In publishing the Regulatory Program of the United States Government (April 1, 1986 -- March 31, 1987), OMB will add to this narrative description a RIN (if not previously assigned), Legal Deadline, Timetable, and Agency Contact based on the information provided by the agency in the Regulatory Information Data Form or the Update Documents.

A. Instructions for "Problem To Be Solved": This explanation should answer the question "Why?"--why act, why regulate? Is there sufficient need to warrant any governmental action at all? The agency should briefly and factually describe the underlying problem to be solved--e.g., the market failure or health-and-safety risks to be addressed--or the benefits to be provided, in such a way as to justify and demonstrate the need for taking action. In some instances, a statute may not afford the agency any regulatory discretion. In such cases, "Why regulate?" is answered by carefully describing the relevant statutory requirements. If, in the agency's view, a regulatory action is compelled by law but does not respond to any true market failure or other real problem warranting action by the agency, the agency should specifically so state. In other instances, the agency may believe that a statute affords discretion only to make certain factual findings, or that the statute permits consideration of only certain categories of information in making its findings, but that once those findings are made the statute requires regulatory action. In these circumstances, the agency should describe the relevant statutory provisions and the specific factual basis for the findings it is authorized to make (although it may not yet have made such findings).

If a SPA is at a very early stage in its development, the underlying issue facing the agency may be precisely whether there is any problem worth addressing. In this case, the description should clearly state that the agency is trying to determine whether a significant problem exists and should describe the actions it plans to take in order to make that determination. Agencies should never assume the existence of a problem, nor should they infer the existence of a problem based upon impressionistic or anecdotal evidence.

For example, an agency may have discretionary regulatory authority to mitigate the harm caused by certain kinds of health-and-safety risks. It may be concerned about a particular hazard on which it has heard reports from industry or workers or which is the subject of a new academic study. Before the agency acts, it must undertake to analyze the scope of the hazard, and to estimate the potential for resultant risks. The agency then will have to identify the causal linkage between the hazard and the alleged health-and-safety effects, assess the potential human exposure and the likely effects on humans, and balance the likely costs of correction against the health-and-safety benefits likely to be obtained. In this example, specific agency efforts to document the existence and potential effects of the hazard--the surveys, the planned data collections, and the evaluation--should be described in the problem statement.

In other cases, the problem may arise because implementation of a complex statute is causing unexpected and undesirable economic or other side-effects. If so, explain what the statute requires and how it or implementing regulations appear to cause or contribute

to the specific problems. This could include statutory barriers to the agency's choice of a regulatory strategy that might be more efficient and effective, resulting in a sounder solution to the underlying problem, or regulatory constraints on the private sector or State and local governments that could be relaxed in order to improve program performance or at least to mitigate deleterious side-effects.

B. Instructions for "Need For Federal Solution" This explanation should explain "Who"--Who should regulate. Would it be more effective or less expensive for the Federal government to solve the problem instead of private parties or State or local governments. Any explanation of why the Federal government should act should also explain the converse--why private parties are not sufficiently motivated or able to solve the problem, and why State or local governments may not be the best ones to solve the problem. If a Federal statute authorizes or permits the agency to modify private incentives or to help State or local governments to solve the problem, then the agency should explain how it plans to do so.

If there is a statutory or judicial mandate requiring Federal action, the agency should cite and describe its scope and the extent to which it actually relates, in the agency's view, to an underlying problem in need of a Federal solution.

C. Instructions for "Approach": This explanation should answer the question "How?"--how might the problem be solved, and what alternative solutions, or methods of implementation, is the agency considering. The agency should summarize each Federal regulatory solution that is being considered, including the major advantages and disadvantages of each, and any groups of persons, firms, or political jurisdictions that would receive a significant benefit or bear a significant cost if that solution were implemented.

In some cases, the problem may be caused by an existing regulation. One solution might be to repeal the regulation; another might be to revise the regulation in order to cure the defect. This description should provide a sufficient factual basis to indicate which of the possible solutions will best address the underlying causes of the problem or, if it has not yet done so, how the agency will be making that determination.

Every agency regulatory activity should support and further the policy goals and priorities of the Administration, consistent with all applicable legal requirements. If the agency is planning to act in order to solve a demonstrated problem, and if solving that problem is properly, in the view of the Administration, a function for the Federal government, then the agency should explain specifically how its regulatory activity supports the overall regulatory directions and policies that have been approved and supported by the Administration. In explaining the consistency of its regulatory activity with Administration

policy, the agency should describe why the possible regulatory action is consistent with law. The agency should also specifically identify the provisions or aspects of the Administration's regulatory principles, as set forth in Executive Order No. 12291 and the 1983 Task Force Report, cited in Section 2(d) of Executive Order No. 12498, with which the regulatory activity is consistent.

The agency should also describe any limitations or circumstances that may reasonably cause it to take a regulatory action that conflicts with any of the Administration's regulatory principles, policies, and priorities. If the action will not support Administration policy, the agency must explain the statute or other legal mandate that nonetheless compels such activity.





## REGULATORY INFORMATION SERVICE CENTER

### INSTRUCTIONS FOR COMPLETING THE "REGULATORY INFORMATION DATA FORM" AND THE "UPDATE DOCUMENT"

#### CRITERIA FOR INCLUDING RULES

Agencies should complete a "Regulatory Information Data Form" for all regulatory activities being conducted or reviewed during the succeeding 12 months by the agency, except for those excluded by Section 1(a) of EO 12291 or by the Director of OMB. OMB Bulletin No. 95-7 (December 14, 1984) requires that agendas include all prospective regulatory actions that pertain to procurement. Routine regulations and those that relate to internal agency management need not be included. Agencies should use the Update Document to record changes to information they have previously supplied. Agencies will designate on the forms whether the information they supply will be published in the *Unified Agenda of Federal Regulations* and/or the *Regulatory Program of the United States Government*.

#### STEP-BY-STEP INSTRUCTIONS

**TYPE ALL INFORMATION AT 10 PITCH** in usual upper- and lower-case fashion. Do **NOT** use 12 pitch type. Restrict your entries to the number of spaces we provide on the forms. Any information recorded outside the spaces provided will not print. Use only **RED** ball point pen when you need to make notations on the Update Document.

1. **DEPARTMENT/AGENCY AND BUREAU/OFFICE ISSUING REGULATION** (Data Form Only) – Give full name(s), or acronyms.
2. **REGULATION IDENTIFIER NUMBER (RIN)** (Data Form Only)
  - 2a. If this action had a previously assigned RIN, record it in the space we provide.
  - 2b. If the action had no previously assigned RIN, record the 4-digit Agency Code number that OMB/OIRA assigns to your agency.
  - 2c. Check the box provided on the Data Form if this new action resulted from splitting or merging previous entries, and record the previous RIN(s) in the space provided. If you need to explain how the new action is related to the previous RIN, use Block A "Additional Information."
3. **TITLE OF REGULATION** – Use the full title. Do not break words – end lines with full words only. Use only the number of spaces provided.
4. **SIGNIFICANCE** – Check a, b, or c to indicate in which document you intend your information to be published. If your entry will appear only in the Agenda, complete 4b and 4b1.
  - 4a. Check if this action will be included in the *Regulatory Program of the United States*, but not in the *Unified Agenda of Federal Regulations*. For the Regulatory Program you must also provide a longer narrative statement; follow "Instructions for Describing Significant Regulatory Actions."
  - 4b. Check if this action will be included in the *Unified Agenda*, but not the *Regulatory Program*.
  - 4b1. If the action is not to appear in the *Regulatory Program*, indicate whether or not the agency considers it a priority.
  - 4c. Check if this action will appear in both the *Regulatory Program* and the *Unified Agenda*. You must also provide a longer narrative statement; follow "Instructions for Describing Significant Regulatory Actions."

Some program entries are combination actions that include two or more individual actions you wish to keep separate in the Agenda. If your entry is an Agenda item related to a Regulatory Program entry, enter the Program RIN here.

5. **AGENCY CONTACT** – The computer automatically prints the agency name from the first four digits of the RIN. If you enter an agency name that corresponds to the first 4 digits of your RIN, the name will print twice in the address. If the Contact Agency Code differs from that of the issuing agency, enter the proper 4-digit code for the agency of the contact person. If no code has been assigned for the agency, write out the subagency, office, etc., in the "Address" section.
6. **EFFECTS ON SMALL BUSINESSES AND OTHER ENTITIES** – Indicate if your action is expected to have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 USC 601(6)). If you have not yet determined this, check "Undetermined." If the Regulatory Flexibility Act does not apply to your rulemaking, you may check "Not Applicable."
7. **CFR CITATION** – Provide the citation(s) to the CFR section(s) which affect(s) or will be affected by the regulatory action (maximum of 15 cites). Enter **only one citation on each line**. Do not cite to the chapter or subchapter and do not include the word "Part" in your citation. If you wish to indicate "New" or "Revision," do so in parentheses after the citation and a comma.

#### Examples:

TO CITE TO:	WRITE THE FOLLOWING:
a. 42 CFR Parts 121 and 122	42 CFR 121 42 CFR 122
b. 13 CFR Part 120.2(d)(4)	13 CFR 120.2(d)(4)
c. 42 CFR Parts 121-135	42 CFR 121 to 135
d. Revision to 42 CFR 121	42 CFR 121, (Revision)
e. Not yet determined	00 CFR NYD
f. Not applicable	00 CFR NA
g. None	00 CFR None

If there are more than 15 citations, record the most important 15 and check the appropriate box.

8. **LEGAL AUTHORITY** – Provide the citation for the legal authority that authorizes the regulatory action. Enter **only one citation on each line**. Use United States Code (USC) citations at all times possible. If a law is not yet codified, use *only* the Public Law (PL) citation. You can also use Executive Order (EO) citations.

Please express citations as in the examples below. Note that you should drop all periods from your citations.

#### Examples:

TO CITE TO:	WRITE THE FOLLOWING:
a. 42 U.S.C. 1302 and 1395	42 USC 1302 42 USC 1395
b. 20 U.S.C. 1411-20	20 USC 1411 to 1420
c. 15 U.S.C. 78(c)-(hh)	15 USC 78(c) to 78(hh)
d. 12 U.S.C. 1701 et seq.	12 USC 1701 et seq
e. Public Law 91-190, Section 203	PL 91-190, Sec 203
f. Executive Order 12291	EO 12291

*Please Read Front and Back of Instructions*

You may enter the popular name of a law in quotation marks after its USC or PL citation.

**Example: 29 USC 206(d) "Equal Pay Act of 1963"**

Use only the number of spaces provided. If there are more than 15 citations, record the most important 15 and check the appropriate box.

- 9. ABSTRACT** (Use only number of spaces provided) – Summarize the problem the regulation is to solve, the need for a Federal solution, and, to the extent available, the alternatives being considered for addressing the problem, and the potential costs and benefits of the action. Provide quantitative estimates whenever possible. Do not break words – end lines with full words only. For actions in the Regulatory Program, this Abstract serves as a summary of the more detailed narrative you attach separately according to "Instructions for Describing Significant Regulatory Actions."

- 10. LEGAL DEADLINE** – You must answer this question if the entry is to appear in the Regulatory Program. Indicate if your entry has a legal deadline, and if so, if the deadline is Statutory or Judicial, and the date. Describe the deadline further if you wish.

- 11. TIMETABLE** – Give the past history and future schedule for agency actions. You must include a next action date (for the April Agenda and Program, a date March 1 or later, for the October Agenda, a date of September 1 or later), or indicate "Next Action Undetermined" by checking the appropriate block. For the Regulatory Program you must include a minimum of three next action dates. If all action on the entry is completed, record the final action in Block 12.

Record dates as follows: for past stages, give the actual date and citation; for future stages, give either an exact date (05/13/83) or the estimated month (05/00/83). If you have no estimated future date for the next stage, record "00/00/00" in the date column. Record all dates using 6 digits, separated by slashes. You must record a month if you record a year. Do NOT enter 00/00/83.

If a rulemaking involves repeating a stage of development (e.g., ANPRM, NPRM, etc.), record the first action in its corresponding block and record all later actions of the same type under 11a Supplemental Timetable.

Timetable categories are self-explanatory except for:

**Future Final Action, Future Final Action Effective** – If the Final Action is completed, use only Block 12 to record the information.

**Review of Existing Regulation** – Record only the beginning date and the projected future completion date for the review in Block 11. If the review is completed, you will do one of the following:

- **Review Complete and No Further Action** – Complete only Block 12.
- **Review Complete and a New Rulemaking Will Occur** – Fill out Block 12 to indicate the end of the review and fill out a new Regulatory Information Data Form for the new rulemaking. Use the same RIN. Both actions will print in the Agenda.

- 11a. SUPPLEMENTAL TIMETABLE** – Specify other actions, e.g., Notice of Inquiry, Statement of Policy, Public Hearing. You may also enter a description of the action on the line provided.

**Example:**

**NPRM**

**: for First Right of Hire**

(Call RISC if you need to record more than the number of supplemental actions provided on the form.)

- 12. COMPLETED ACTION** – These are regulatory actions or reviews completed or withdrawn since the preceding Agenda. Indicate why the action is completed, provide the date and citation, if appropriate, and describe in more detail, if you desire, in the space provided. If a review of an existing regulation is complete and you wish the action to appear in the Agenda twice, as both a completed review and a new rulemaking action, complete the appropriate item in Block 12 and also fill out a new Regulatory Information Data Form for that new rulemaking, using the same RIN.

## INSTRUCTIONS FOR COMPLETING OPTIONAL INFORMATION

- A. ADDITIONAL INFORMATION** (Use only number of spaces provided) – In this area you can provide additional information that your agency or the public may need. Do not break words – end lines with full words only.

- B. SUBJECT CODES** – Subject codes can be used to order your agenda entries within the categories defined by the OMB Bulletin that describes the requirements for the Regulatory Program and Unified Agenda. Contact RISC if you wish to use them.

- C. COMPLIANCE COST TO THE PUBLIC** – Estimates should be gross compliance cost, not net costs that include benefits to the public.

1. Estimate initial (administrative startup and/or capital) cost;
2. Estimate the yearly recurring (annual operating) cost that your regulation could impose; and
3. Record the base year you used to calculate your dollar estimates.

Use only numerals for dollar figures; do not separate numbers by commas. You may record a negative cost, one preceded by a minus sign (-), to indicate a savings.

- D. AFFECTED SECTORS** – Indicate, using 2- or 3-digit SIC numbers as appropriate, the industrial sectors that may be most affected, either directly or indirectly, by the action. Indicate both the sectors that could benefit from the regulation and those that could bear a cost. If there are no sectors affected, check "None." If more than 10 sectors will be affected, check "Multiple"; if all sectors will be affected, check "All."

- E. LEVELS OF GOVERNMENT AFFECTED** – Check all that apply. For instance, check "State" if the State would monitor or enforce the regulation, if a State-owned facility such as a hospital would have to comply, or if a State regulation would be pre-empted.

- F. ANALYSIS** – RIA is the acronym for Regulatory Impact Analysis required for major regulations under EO 12291. RFA stands for a Regulatory Flexibility Analysis required for actions expected to have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

## FOR ADDITIONAL INFORMATION CONTACT

**THE REGULATORY INFORMATION SERVICE CENTER**  
Room 5216  
New Executive Office Building  
726 Jackson Place, NW  
Washington, DC 20503  
(202) 395-4931

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